

ASSEMBLY BILL

No. 575

Introduced by Assembly Member Wolk

February 16, 2005

An act to amend Sections 42463, 42464, and 42464.2 of the Public Resources Code, relating to electronic waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as introduced, Wolk. Electronic waste recycling.

Existing law, the Electronic Waste Recycling Act of 2003, requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. Under existing law, the fees are deposited in the Electronic Waste Recovery and Recycling Account, and the California Integrated Waste Management Board and the Department of Toxic Substances Control are continuously appropriated the money in the account to make electronic waste recovery payments and recycling payments to cover the net cost of an authorized collector in operating a free and convenient system for collecting, consolidating, and transporting covered electronic wastes, and to make electronic waste recycling payments to cover an e-waste recycler's net cost of receiving, processing, and recycling covered electronic waste. Existing law defines the term "retailer" as a person who makes a retail sale of a covered electronic device.

This bill would define the term "vendor". The bill would allow a retailer to elect to pay the covered electronic waste recycling fee on behalf of the consumer by paying the covered electronic waste recycling fee to the retailer's vendor. The bill would provide that if the retailer makes this election, the covered electronic waste recycling fee

is a debt owed by the vendor to the state, and the consumer and the retailer are not liable for the fee.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42463 of the Public Resources Code is
2 amended to read:
3 42463. For the purposes of this chapter, the following terms
4 have the following meanings, unless the context clearly requires
5 otherwise:
6 (a) “Account” means the Electronic Waste Recovery and
7 Recycling Account created in the Integrated Waste Management
8 Fund under Section 42476.
9 (b) “Authorized collector” means any of the following:
10 (1) A city, county, or district that collects covered electronic
11 devices.
12 (2) A person or entity that is required or authorized by a city,
13 county, or district to collect covered electronic devices pursuant
14 to the terms of a contract, license, permit, or other written
15 authorization.
16 (3) A nonprofit organization that collects or accepts covered
17 electronic devices.
18 (4) A manufacturer or agent of the manufacturer that collects,
19 consolidates, and transports covered electronic devices for
20 recycling from consumers, businesses, institutions, and other
21 generators.
22 (5) An entity that collects, handles, consolidates, and
23 transports covered electronic devices and has filed applicable
24 notifications with the department pursuant to Chapter 23
25 (commencing with Section 66273.1) of Division 4.5 of Title 22
26 of the California Code of Regulations.
27 (c) “Board” means the California Integrated Waste
28 Management Board.
29 (d) “Consumer” means a person who purchases a new or
30 refurbished covered electronic device in a transaction that is a
31 retail sale or in a transaction to which a use tax applies pursuant
32 to Part 1 (commencing with Section 6001) of Division 2 of the
33 Revenue and Taxation Code.

1 (e) “Department” means the Department of Toxic Substances
2 Control.

3 (f) (1) Except as provided in paragraph (2), “covered
4 electronic device” means a video display device containing a
5 screen greater than four inches, measured diagonally, that is
6 identified in the regulations adopted by the department pursuant
7 to subdivision (b) of Section 25214.10.1 of the Health and Safety
8 Code.

9 (2) “Covered electronic device” does not include any of the
10 following:

11 (A) A video display device that is a part of a motor vehicle, as
12 defined in Section 415 of the Vehicle Code, or any component
13 part of a motor vehicle assembled by, or for, a vehicle
14 manufacturer or franchised dealer, including replacement parts
15 for use in a motor vehicle.

16 (B) A video display device that is contained within, or a part
17 of a piece of industrial, commercial, or medical equipment,
18 including monitoring or control equipment.

19 (C) A video display device that is contained within a clothes
20 washer, clothes dryer, refrigerator, refrigerator and freezer,
21 microwave oven, conventional oven or range, dishwasher, room
22 air conditioner, dehumidifier, or air purifier.

23 (D) An electronic device, on and after the date that it ceases to
24 be a covered electronic device under subdivision (e) of Section
25 25214.10.1 of the Health and Safety Code.

26 (g) “Covered electronic waste” or “covered e-waste” means a
27 covered electronic device that is discarded.

28 (h) “Covered electronic waste recycling fee” or “covered
29 e-waste recycling fee” means the fee imposed pursuant to Article
30 3 (commencing with Section 42464).

31 (i) “Covered electronic waste recycler” or “covered e-waste
32 recycler” means any of the following:

33 (1) A person who engages in the manual or mechanical
34 separation of covered electronic devices to recover components
35 and commodities contained therein for the purpose of reuse or
36 recycling.

37 (2) A person who changes the physical or chemical
38 composition of a covered electronic device, in accordance with
39 the requirements of Chapter 6.5 (commencing with Section
40 25100) of Division 20 of the Health and Safety Code and the

1 regulations adopted pursuant to that chapter, by deconstructing,
2 size reduction, crushing, cutting, sawing, compacting, shredding,
3 or refining for purposes of segregating components, for purposes
4 of recovering or recycling those components, and who arranges
5 for the transport of those components to an end user.

6 (3) A manufacturer who meets any conditions established by
7 this chapter and Chapter 6.5 (commencing with Section 25100)
8 of Division 20 of the Health and Safety Code for the collection or
9 recycling of covered electronic waste.

10 (j) “Discarded” has the same meaning as defined in
11 subdivision (b) of Section 25124 of the Health and Safety Code.

12 (k) “Electronic waste recovery payment” means an amount
13 established and paid by the board pursuant to Section 42477.

14 (l) “Electronic waste recycling payment” means an amount
15 established and paid by the board pursuant to Section 42478.

16 (m) “Hazardous material” has the same meaning as defined in
17 Section 25501 of the Health and Safety Code.

18 (n) “Manufacturer” means any of the following:

19 (1) A person who manufactures a covered electronic device
20 sold in this state.

21 (2) A person who sells a covered electronic device in this state
22 under that person’s brand name.

23 (o) “Person” means an individual, trust firm, joint stock
24 company, business concern, and corporation, including, but not
25 limited to, a government corporation, partnership, limited
26 liability company, and association. Notwithstanding Section
27 40170, “person” also includes a city, county, city and county,
28 district, commission, the state or a department, agency, or
29 political subdivision thereof, an interstate body, and the United
30 States and its agencies and instrumentalities to the extent
31 permitted by law.

32 (p) “Recycling” has the same meaning as defined in
33 subdivision (a) of Section 25121.1 of the Health and Safety
34 Code.

35 (q) “Refurbished,” when used to describe a covered electronic
36 device, means a device that the manufacturer has tested and
37 returned to a condition that meets factory specifications for the
38 device, has repackaged, and has labeled as refurbished.

39 (r) “Retailer” means a person who makes a retail sale of a new
40 or refurbished covered electronic device. “Retailer” includes a

1 manufacturer of a covered electronic device who sells that
2 covered electronic device directly to a consumer through any
3 means, including, but not limited to, a transaction conducted
4 through a sales outlet, catalog, or the Internet, or any other
5 similar electronic means.

6 (s) (1) “Retail sale” has the same meaning as defined under
7 Section 6007 of the Revenue and Taxation Code.

8 (2) “Retail sale” does not include the sale of a covered
9 electronic device that is temporarily stored or used in California
10 for the sole purpose of preparing the covered electronic device
11 for use thereafter solely outside the state, and that is subsequently
12 transported outside the state and thereafter used solely outside the
13 state.

14 (t) *“Vendor” means a person who makes a sale of a covered*
15 *electronic device for the purpose of resale to a retailer who is the*
16 *lessor of the covered electronic device to a consumer under a*
17 *lease that is a continuing sale and purchase pursuant to Part*
18 *1(commencing with Section 6001) of Division 2 of the Revenue*
19 *and Taxation Code.*

20 (u) “Video display device” means an electronic device with an
21 output surface that displays, or is capable of displaying, moving
22 graphical images or a visual representation of image sequences or
23 pictures, showing a number of quickly changing images on a
24 screen in fast succession to create the illusion of motion,
25 including, if applicable, a device that is an integral part of the
26 display, in that it cannot be easily removed from the display by
27 the consumer, that produces the moving image on the screen. A
28 video display device may use, but is not limited to, a cathode ray
29 tube (CRT), liquid crystal display (LCD), gas plasma, digital
30 light processing, or other image projection technology.

31 SEC. 2. Section 42464 of the Public Resources Code is
32 amended to read:

33 42464. (a) On and after January 1, 2005, or as otherwise
34 provided by Section 25214.10.1 of the Health and Safety Code, a
35 consumer shall pay a covered electronic waste recycling fee upon
36 the purchase of a new or refurbished covered electronic device,
37 in the following amounts:

38 (1) Six dollars (\$6) for each covered electronic device with a
39 screen size of less than 15 inches measured diagonally.

1 (2) Eight dollars (\$8) for each covered electronic device with
2 a screen size greater than or equal to 15 inches but less than 35
3 inches measured diagonally.

4 (3) Ten dollars (\$10) for each covered electronic device with a
5 screen size greater than or equal to 35 inches measured
6 diagonally.

7 (b) Except as provided in subdivision (d), a retailer shall
8 collect from the consumer a covered electronic waste recycling
9 fee at the time of the retail sale of a covered electronic device.

10 (c) A retailer may retain 3 percent of the covered electronic
11 waste recycling fee as reimbursement for all costs associated
12 with the collection of the fee and shall transmit the remainder of
13 the fee to the state pursuant to Section 42464.4.

14 (d) (1) If a retailer elects to pay the covered electronic waste
15 recycling fee on behalf of the consumer, the retailer shall provide
16 an express statement to that effect on the receipt given to the
17 consumer at the time of sale. If a retailer elects to pay the
18 covered electronic waste recycling fee on behalf of the consumer,
19 the fee is a debt owed by the retailer to the state, and the
20 consumer is not liable for the fee.

21 (2) *A retailer may elect to pay the covered electronic waste*
22 *recycling fee on behalf of the consumer by paying the covered*
23 *electronic waste recycling fee to the retailer's vendor, but only if*
24 *all of the following conditions are met:*

25 (A) *The vendor is registered with the State Board of*
26 *Equalization to collect and remit the covered electronic waste*
27 *recycling fee.*

28 (B) *The retailer and the vendor agree that the vendor will*
29 *collect the covered electronic waste recycling fee from the*
30 *retailer and remit the amounts collected to the State Board of*
31 *Equalization.*

32 (C) *The vendor's invoice to the retailer separately states the*
33 *covered electronic waste recycling fee, and the retailer pays the*
34 *vendor that fee.*

35 (D) *The retailer provides an express statement on the invoice,*
36 *contract, or other record documenting the sale given to the*
37 *consumer, that the covered electronic waste recycling fee has*
38 *been paid on behalf of the consumer.*

39 (3) *For the purpose of making the election in paragraph (2), if*
40 *the conditions set forth in subparagraphs (A), (B), and (C) of*

1 *paragraph (2), are met, the covered electronic waste recycling*
2 *fee is a debt owed by the vendor to the state, and the consumer*
3 *and the retailer are not liable for the fee.*

4 (e) The retailer shall separately state the covered electronic
5 waste recycling fee on the receipt given to the consumer at the
6 time of sale.

7 (f) On or before August 1, 2005, and, thereafter, no more
8 frequently than annually, and no less frequently than biennially,
9 the board, in collaboration with the department, shall review, at a
10 public hearing, the covered electronic waste recycling fee and
11 shall make any adjustments to the fee to ensure that there are
12 sufficient revenues in the account to fund the covered electronic
13 waste recycling program established pursuant to this chapter.
14 Adjustments to the fee that are made on or before August 1 shall
15 apply to the calendar year beginning the following January 1.
16 The board shall base an adjustment of the covered electronic
17 waste recycling fee on both of the following factors:

18 (1) The sufficiency, and any surplus, of revenues in the
19 account to fund the collection, consolidation, and recycling of
20 covered electronic waste that is projected to be recycled in the
21 state.

22 (2) The sufficiency of revenues in the account for the board
23 and the department to administer, enforce, and promote the
24 program established pursuant to this chapter, plus a prudent
25 reserve not to exceed 5 percent of the amount in the account.

26 SEC. 3. Section 42464.2 of the Public Resources Code is
27 amended to read:

28 42464.2. The State Board of Equalization shall collect the fee
29 imposed pursuant to this chapter under the Fee Collection
30 Procedures Law (Part 30 (commencing with Section 55001) of
31 Division 2 of the Revenue and Taxation Code). For the purposes
32 of this section, a reference in the Fee Collection Procedures Law
33 to “feepayer” shall include a retailer~~and~~, a consumer, *and if an*
34 *election is made pursuant to paragraph (2) of subdivision (d) of*
35 *Section 42464, a vendor.*